

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate the  
Implementation Of Feed-in Tariffs.

DOCKET NO. 2008-0273

PUBLIC UTILITIES  
COMMISSION

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**BLUE PLANET FOUNDATION'S COMMENTS ON HAWAIIAN  
ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY,  
INC., AND MAUI ELECTRIC COMPANY, LIMITED'S REPORT ON  
QUEUEING AND INTERCONNECTION PROCEDURES FILED  
FEBRUARY 1, 2010**

**AND**

**CERTIFICATE OF SERVICE**

SCHLACK ITO LOCKWOOD PIPER & ELKIND  
Douglas A. Codiga, Esq.  
Topa Financial Center  
745 Fort Street, Suite 1500  
Honolulu, Hawaii 96813  
Tel. (808) 523-6040

Attorney for Blue Planet Foundation

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FEBRUARY 1, 2010**

Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, and pursuant to the Commission's October 29, 2009 Order Setting Schedule in the above-captioned matter, hereby submits its comments ("Comments") on the Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited's (collectively, "HECO Companies") Report on Queueing and Interconnection Procedures filed February 1, 2010 ("HECO Q&I Report"), as follows.<sup>1</sup>

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<sup>1</sup> On February 23, 2010, the HECO Companies proposed March 8, rather than February 26, 2010, as the due date for Comments on Queueing and Interconnection. Letter from D. Endo-Omoto (HECO) to Commission dated Feb. 23, 2010 at 3. Insofar as the Commission may treat the HECO Companies' letter as a motion for an extension of time under sections 6-61-23 and 6-61-41, Hawaii Administrative Rules, Blue Planet hereby respectfully and formally joins the HECO Companies' motion to extend the time for submission of Comments on Queueing and Interconnection by Blue Planet and all parties to March 8, 2010. It is further noted that on March 8, 2010 at 9:47 AM, the HECO Companies sent an e-mail to the parties informing the parties that the Independent Observer ("IO") "will be recommending" a technical workshop on queueing and interconnection procedures "later this month," and "[t]o the extent that parties may have finalized comments that they wish to file with the Commission today, the IO would encourage the parties to submit their comments so the IO may consider them prior to the workshop. To the extent that parties would prefer not to file, the IO intends to work with the Hawaiian Electric Companies to establish a date for parties to file their comments for his consideration." E-mail from M. Chun (HECO) to Parties dated Mar. 8, 2010. In light of the foregoing statements by the HECO Companies and IO, Blue Planet hereby expressly reserves, and these Comments filed March 8, 2010 do not waive, its right to file with the Commission in this proceeding formal comments on queueing and interconnection procedures, in addition to and apart from these Comments filed March 8, 2010, and to otherwise fully participate in any future filings, submissions, technical sessions, etc. concerning queueing and interconnection in this proceeding.

The purpose of queuing and interconnection procedures is ensure the feed-in tariff (“FIT”) dramatically accelerates renewable energy acquisition in Hawaii by reducing developer risk, and achieves Hawaii energy law and policy objectives including the statutory requirement of forty percent renewable energy by 2030. The Commission should adopt queuing and interconnection procedures on an interim basis only until limits (if any) on the interconnection of intermittent renewable energy projects are based on Commission-approved formal reliability standards, and until the Commission has approved unified queuing procedures encompassing all procurement contracting mechanisms. In addition, given that the HECO Companies have not submitted final procedures and propose an iterative process, the Commission should add procedural steps where necessary to allow further comment and participation by all parties.

Finally, and as discussed more fully below, Blue Planet objects to the proposed queuing procedures to the extent they introduce significant utility discretion. The Commission has concluded that a successful FIT requires “predictable” processes that “reduce the risk” to developers. Accordingly, queuing procedures that reduce utility discretion and developer risk are most likely to achieve the purpose of the FIT, which is to dramatically accelerate renewable energy development in Hawaii.

## **I. FACTUAL AND PROCEDURAL BACKGROUND.**

### **A. September 25, 2009 Decision and Order.**

The Commission’s September 25, 2009 Decision and Order (“D&O”) provides specific guidance concerning queuing and interconnection procedures (“Q&I procedures”) and the related Independent Observer (“IO”). Pursuant to the D&O, the Commission “declines to dictate specific queuing and interconnection procedures for FIT [i.e., Feed-in Tariff, Docket No. 2008-0273 (“FIT”)] projects at this time” and directs the HECO Companies to “collaborate with

the other parties” to develop procedures. *Id.* at 92. The procedures should include (i) “project development milestones” to advance in the queue, (ii) “deposits” for applicants, which deposits are subject to “forfeiting,” and (iii) a “mechanism for applicants to apply for extensions for the amount of time needed to meet project development milestones prior to dropping from the queue or forfeiting their deposits.” *Id.* at 93 (emphasis added). These procedures (i.e., milestones, deposits, and time extensions) should, according to the D&O, mitigate the risks associated with deposits but maintain the incentive for only viable projects to apply for interconnection studies. *Id.*

**B. Independent Observer.**

The D&O also requires an IO to “oversee the queuing process for FIT projects.” *Id.* at 93. On December 7, 2009, the HECO Companies submitted for Commission approval the Hawaiian Electric-Accion Group, Inc.-Harry T. Judd contract for the IO position (“IO Contract”). On January 26, 2010 submitted a refined and expanded on the Scope of Work which the Commission approved on January 28, 2010. Order Approving Independent Observer Contract dated Jan. 28, 2010 at 1. Pursuant to the IO Contract Scope of Work, the IO’s services include “providing assistance to the Company [i.e., HECO Companies]” for the development of queuing procedures for HECO, HELCO and MECO for (i) the FIT, and (ii) “various contracting mechanisms” including, in addition to FIT, competitive bidding, bilateral power purchase agreements, Net Energy Metering, Schedule Q, and standard interconnection agreements. Letter from D. Endo-Omoto (HECO) to Commission dated Jan. 26, 2010, Attachment A at 1. The IO shall also “monitor” administration of the queuing procedures by the HECO Companies. *Id.*

### **C. Technical Sessions.**

The HECO Companies conducted Technical Sessions on November 19, 2009 and January 19, 2010. The proposed IO, Harry Judd of Accion Group, Inc., participated in the latter Technical Session. The HECO Companies provided written materials in advance of each session which the HECO Companies have attached to the HECO Q&I Report.

### **D. HECO Q&I Report.**

On February 1, 2010, the HECO Companies filed the HECO Q&I Report, which consists of their letter and attached reports (i) Merrimack Energy Group, Inc., "Hawaiian Electric Company, Inc. Development of Feed-in Tariff Queuing and Interconnection Procedures and Proposal for Initial Implementation" ("Merrimack Report"), (iii) HECO Companies, "Approach to Development of FIT Queuing Procedures" dated Nov. 19, 2009, and (iv) HECO Companies, "Draft FIT Queuing Procedures" dated Jan. 19, 2010.

## **II. DISCUSSION**

### **A. The Commission Should Adopt Q&I Procedures that Achieve the FIT Purpose and Hawaii State Energy Objectives.**

The purpose of FIT Q&I procedures is ensure the FIT achieves its purpose of dramatically accelerating renewable energy acquisition in Hawaii by reducing developer risk.<sup>2</sup>

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<sup>2</sup> As more fully explained in Blue Planet Foundation's Comments on Proposed Tiers 1 and 2 Tariffs filed January 21, 2010, the purpose of the FIT is not simply to provide another renewable energy procurement mechanism. As the Commission has noted, the FIT is needed in part to remedy the ongoing failure of existing mechanisms to procure sufficient amounts of renewable energy. *See, e.g.*, D&O at 13 ("a FIT is needed for the following reasons: . . . 'only 4% of HECO's sales (Oahu) were supplied by renewable energy, and 96% were supplied by imported fossil fuels.'"). Rather, the purpose of the FIT is to dramatically accelerate renewable energy use in Hawaii. The second sentence of the D&O declares that FITs are approved to "accelerate the acquisition of renewable energy." *Id.* at 1 (emphasis added). The D&O further cites to the Commission's October 24, 2008 Order Initiating Investigation, which likewise affirms: "[The Energy] Agreement is a commitment on the part of the State and the HECO Companies to accelerate the addition of new, clean resources on all islands[.] . . . Included in the Agreement is a commitment by the HECO Companies to implement feed-in tariffs "to dramatically accelerate the addition of renewable energy from new sources" and to "encourage increased development of alternative energy projects." D&O at 2-3 (emphasis added) (citations omitted); *see also id.* at 5 (Statement of Issues includes best design for FITs to "accelerate and increase the development of Hawaii's renewable energy resources[.]"); *id.* at 14 (according to the parties, a FIT will encourage "accelerated acquisition of renewable energy"); *id.* at 15 (FIT may "accelerate the

Similarly, the purpose of both FIT and unified Q&I procedures is to achieve Hawaii energy law and policy objectives, including the statutory requirement of forty percent renewable energy by 2030 (“Hawaii energy objectives”).<sup>3</sup> Reducing developer risk serves to achieve both of these purposes. As the Commission has observed:

There is no other state in the nation that is as dependent on oil as Hawaii is. That oil, which is the primary source of our electric generation, is imported into our State and comes from countries that may not be sympathetic to U.S. interests. A procurement mechanism, such as a FIT, may accelerate the acquisition of renewable energy onto the HECO Companies’ systems thereby reducing our State’s overall dependence on foreign oil; and produce some certainty as to all the price of electricity will no longer be as heavily tied to volatile oil prices. A process that is predictable in setting forth the essential terms under which renewable energy will be purchased by the utilities will, as SA and HSEA assert, reduce “the risk, and hence the cost, of non-utility generated power” and provide economic growth through “green collar” jobs and reduced export of dollars earned to purchase fossil fuels.

D&O at 15-16 (emphasis added).

**B. The Commission Should FIT Q&I Procedures on an Interim Basis Only Pending Commission Approval of Formal Reliability Standards and Unified Q&I Procedures.**

1. Formal reliability standards.

The Commission should adopt Q&I procedures on an interim basis only. Q&I procedures involve the HECO Companies’ evaluation of potential limits to the interconnection of additional renewable energy projects to the HECO Companies’ electric systems. For example, the HECO Q&I Report proposes to “assess each project relative to its potential impact on system reliability.” *Id.*, Attachment A at 9. Any such limits, however, should properly be based on standards that are equivalent to North American Electric Reliability Corporation (“NERC”)

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acquisition of renewable energy”); *id.* at 42-43 (Commission’s desire to “accelerate the adoption of renewable energy” outweighs HECO Companies’ project size concerns).

<sup>3</sup> Section 269-92(a), Hawaii Revised Statutes, as amended by 2009 Haw. Sess. Laws, Act 155 §§ 3, 11.

formal bulk electric system reliability standards and developed in the future pursuant to a stakeholder-driven process conducted by an independent entity (“Hawaii NERC RS”). The HECO Companies’ electric systems are not currently planned and operated according to Hawaii NERC RS. *See* Blue Planet Response to HECO/Blue Planet-IR-1 filed Mar. 1, 2010 at 3-6.

Any limits on the HECO Companies’ interconnection of additional intermittent renewable energy projects to their respective electric systems should properly be based on Hawaii NERC RS. Unless and until the Commission approves Hawaii NERC RS for the HECO Companies, the nature and extent of interconnection limits, if any, will remain unclear. Indeed, the HECO Companies’ report on reliability standards acknowledges that the nature and extent of reliability-related concerns is not resolved at this time.<sup>4</sup> Accordingly, insofar as FIT Q&I procedures adopted by the Commission in this proceeding involve the HECO Companies’ evaluation of limits on the interconnection of additional intermittent renewable energy projects, such procedures should be adopted on an interim basis only pending Commission approval of Hawaii NERC RS and the proper determination of interconnection limits (if any) based upon the Hawaii NERC RS.

## 2. Unified Q&I procedures.

The Commission, the HECO Companies and parties to this proceeding have acknowledged the importance of unified Q&I procedures. The D&O directs the HECO Companies to prepare FIT Q&I procedures. D&O at 92 (queuing and interconnection

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<sup>4</sup> *See* (i) HECO Companies’ Report on Reliability Standards filed Feb. 8, 2010, including Exhibit 1, “Proposed FIT Reliability Standards for the Hawaiian Electric Companies” and attachments, (ii) HECO Companies’ Clarification to Reliability Standards Report filed Feb. 9, 2010, and (iii) HECO Companies’ Response to Commission Letter of Feb. 19, 2010 (collectively, “HECO RS Report”). The HECO RS Report proposes a Working Group, a primary objective of which is to review and “validate” the findings of the HECO RS Report. *See* HECO Companies’ Response to Commission Letter of February 19, 2010, Attachment 1 at 2 (“To the extent that the existence of reliability and/or curtailment challenges of integrating more variable renewables – including FIT resources – are validated . . .”). The HECO Companies have stated that “no moratoriums [on interconnections] are being called for” based on the HECO RS Report. *See* Letter from D. Endo-Omoto (HECO) to Commission dated Feb. 26, 2010 at 5.

procedures “for FIT projects”). As noted above, however, the IO Contract Scope of Work approved by the Commission expands the IO’s scope of work to include the development of queuing procedures for “various contracting mechanisms” including, in addition to FIT, competitive bidding, bilateral power purchase agreements, Net Energy Metering, Schedule Q, and standard interconnection agreements (“unified Q&I procedures”). Letter from D. Endo-Omoto (HECO) to Commission dated Jan. 26, 2010, Attachment A at 1. Similarly, the HECO Companies propose to develop unified Q&I procedures in conjunction with the development of the Tier 3 tariff:

The FIT Program queue will operate in parallel to other energy contracting mechanisms, including but not limited to negotiated PPAs and competitive bidding. Today’s filing pertains specifically to the FIT Program, however, in developing the proposed FIT queuing procedures, the Hawaiian Electric Companies are mindful of their potential applicability to other energy contracting mechanisms and the importance of establishing an overall energy procurement framework that is fair and transparent to all projects, regardless of contract type. The Hawaiian Electric Companies intend to develop additional information concerning this issue, in consultation with the IO, in the course of developing the proposed Tier 3 FIT.

HECO Q&I Report at 3, n. 1 (emphasis added).

The Commission should adopt unified Q&I procedures as soon as possible. The purpose of unified Q&I procedures is to achieve the conjoined purposes of the FIT program and Hawaii state energy objectives by reducing developer risk to encourage and support private development of renewable energy. D&O at 15-16. Developer risk includes the risk that the HECO Companies will not interconnect the developer’s project to the electric system and the timing of such interconnection relative to other projects.

If the IO and HECO Companies implement separate and diverse Q&I procedures for the FIT and non-FIT procurement mechanisms, developer risk will naturally be increased



because developers will have less understanding and assurance regarding whether the HECO Companies will interconnect their project and the timing of interconnection relative to other projects. Conversely, uniform Q&I procedures will reduce developer risk by “establishing an overall energy procurement framework that is fair and transparent to all projects, regardless of contract type.” HECO Q&I Report, Attachment A at 3, n. 1.

For these reasons, the Commission should adopt FIT Q&I procedures for Tiers 1, 2 and 3 as soon as possible, consistent with efforts to expeditiously achieve the FIT purpose and Hawaii energy objectives. To reduce developer risk, however, the Commission should adopt FIT Q&I procedures for all Tiers on an interim basis only and should substitute the unified Q&I procedures as soon they are approved.

**C. The Commission Should Allow Comments on the IO’s Forthcoming Report and Additional Procedural Steps Upon Commission Approval of Formal Reliability Standards and Unified Q&I Procedures.**

The HECO Q&I Report does not provide final Q&I procedures for review and comment by the parties to this proceeding. The Commission’s October 29, 2009 Order Setting Schedule, as amended, requires filing of Q&I procedures by February 1, 2010. The HECO Companies filed a “Report.” The report states that the IO will provide a future “independent report” to the Commission regarding his “findings, determinations and recommendations” for further action (“IO’s report”). *Id.*, Attachment A at 4. The HECO report also envisions “future workshops.” *Id.*, Attachment A at 3. Materials to be made available on the future FIT program website include “FIT Queuing Procedures.” *Id.*, Attachment A at 7.

Blue Planet submits that the parts of the report most closely related to actual Q&I procedures are Merrimack Report sections IV (“Overview” of Tiers 1 and 2 queuing procedures), V (FIT release schedule), and VI (reevaluation), and two flow charts concerning the application and queuing process. *See* HECO Q&I Report, Attachment A at 7-12, 69-70. These narratives

and flow charts do not constitute final written procedures. Thus, at this time the parties in this proceeding are unable to comment on final Q&I procedures.

Given the importance of Q&I procedures to success of the FIT and non-FIT procurement mechanisms, and the iterative process to develop the procedures, Blue Planet respectfully submits that it may be appropriate for the Commission to allow, at a minimum, the parties to comment on the IO report when it becomes available. For the same reasons, further participation by all parties in development of unified Q&I procedures is necessary and appropriate. Such participation may require a reasonable number of additional procedural steps.

**D. Comments on HECO Q&I Report (Merrimack Report §§ IV-VI and Figures 1 and 2).**

Blue Planet has the following comments on relevant portions of the HECO Q&I Report.

1. Registration, pre-application and application processes, and fees and deposits.

The HECO Q&I Report proposes that interested parties must register on the FIT program website and receive a username and password before they are able to “have access to information pertinent to actual applicants.” HECO Q&I Report, Attachment A at 7, n. 3. To promote the free flow of information and encourage interest and support for the FIT program, Blue Planet supports making information pertinent to actual applicants available to interested parties that have not registered.

2. Queuing procedures, interconnection assessment, and review process.

The HECO Q&I Report proposes that interested parties must successfully complete several important steps before their project joins the queue. The interested party and its project must register on the website, complete an “Application Package” (consisting of a completed “Application Form” and “other required information”), “acknowledge acceptance” of

the applicable Schedule FIT Agreement, undergo a “Queuing Assessment,” and for Tier 2 projects complete an Interconnection Requirements Study (“IRS”), if required. HECO Q&I Report, Attachment A at 8-9, 69, 70. The HECO Q&I Report also proposes to assign a “date/time stamp” presumably to completed Application Packages. *Id.*, Attachment A at 69, 70.

Blue Planet objects to the foregoing process insofar as it allows the HECO Companies to exercise significant discretion in a manner that contributes to increased developer risk. The proposal that the HECO Companies “assess each project relative to its potential impact on system reliability” introduces significant discretion. HECO Q&I Report, Attachment A at 9. As discussed above, any limits on interconnection of intermittent renewable energy projects should properly be based on Hawaii NERC RS. The Commission has not adopted Hawaii NERC RS at this time.

In addition, the purpose of the date/time stamp – if any – is unclear. For Tier 2 and Tier 3 projects, the stamp appears to have no bearing on queue priority insofar as under the proposed procedures a project does not join the queue until after the HECO Companies have completed their “Queuing Assessment.”

The HECO Q&I Report proposes ranking projects on the queue according to certain criteria. *Id.*, Attachment A at 9. The HECO Q&I Report uses the term “checklist” to describe application of the criteria. *Id.*, Attachment A at 8. Blue Planet submits that the proposed criteria generally are not amenable to functioning as a “checklist” insofar as they involve significant utility evaluation and discretion.

a. “are most ready to proceed”

Blue Planet objects to this proposed criterion as being overbroad and allowing significant discretion by the HECO Companies in a manner that will contribute to increased developer risk.

- b. “will not adversely impact system reliability”

For the reasons explained above, Blue Planet proposes that the Commission approve FIT Q&I procedures on an interim basis only pending approval of formal reliability standards.

- c. “do not trigger interconnection reviews. Projects which are located in areas where sufficient circuit capacity exists are expected to be placed higher in the queue”

For the reasons explained above, Blue Planet proposes that the Commission approve FIT Q&I procedures on an interim basis only pending approval of formal reliability standards.

- d. “Applicants have ownership or control of the site on which the project is to be constructed for the entire term of the Schedule FIT Agreement.”

Blue Planet does not object to the general concept of this criterion. Blue Planet is unable to further evaluate this criterion in the absence of proposed specific language concerning the proper indicia of ownership and site control (e.g., lease agreement, deed, letter of intent, etc.).

### 3. FIT release schedule.

In general, Blue Planet is unable to meaningfully evaluate the proposed FIT release schedule at this time because the proposed schedule lacks sufficient information concerning the two critical aspects of any such scheme: the approximate amount of time between the proposed steps and the approximate megawatt (“MW”) amount of each “release.”

- a. “NEM conversions”

Blue Planet suggests that written materials provided to existing Net Energy Metering customers concerning the one-time conversion decision under the FIT be reviewed by all parties to this proceeding and approved by the Commission.

b. “Initial Tier 1 Release”

In general, Blue Planet does not object to the proposed initial release. Blue Planet reserves the right to further comment on this proposal upon receiving sufficient information concerning the approximate timing between the proposed steps and MW amount of each release.

c. “Initial Tier 2 Release”

Blue Planet is unable to properly evaluate this proposal at this time. Blue Planet reserves the right to further comment on this proposal upon receiving sufficient information concerning the approximate timing between the proposed steps and MW amount of each release. This item states that the “timing and amount of the release would be agreed to after consultation with the IO.” HECO Q&I Report, Attachment A at 10. Blue Planet submits that any such consultation with the IO should include all parties to this docket, assuming the docket remains open.

d. “Subscription to Tier 1 and Tier 2”

Blue Planet is unable to properly evaluate this proposal at this time. Blue Planet submits that lack of clarity concerning the date and time for “reopening the application process,” and a general ‘stop and start’ approach to the FIT, will likely contribute to developer risk.

e. “Initial Tier 3 Release”

Blue Planet is unable to properly evaluate this proposal at this time. Blue Planet reserves the right to further comment on this proposal upon receiving sufficient information concerning the approximate timing between the proposed steps and MW amount of each release. This item states that the “timing and amount of the release would be agreed to after consultation with the IO.” HECO Q&I Report, Attachment A at 10. Blue Planet submits that any such consultation with the IO should include all parties to this docket, assuming the docket remains open.

f. "Release of Subsequent Queue Capacity"

Blue Planet is unable to properly evaluate this proposal at this time. Blue Planet reserves the right to further comment on this proposal upon receiving sufficient information concerning the approximate timing between the proposed steps and MW amount of each release. This item states that the "the Company" would determine timing and amount of the release. HECO Q&I Report, Attachment A at 11. Blue Planet submits that any such consultation should include the IO and all parties to this docket, assuming the IO remains under contract and the docket remains open.

DATED: Honolulu, Hawaii, March 8, 2010.

  
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DOUGLAS A. CODIGA  
Attorney for Blue Planet Foundation

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date a copy of the foregoing document was  
duly served upon the following individuals by placing a copy of same in the United States Mail,  
postage prepaid, and/or by electronic service, as follows:

DEAN NISHINA  
EXECUTIVE DIRECTOR  
DEPT. OF COMMERCE & CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P.O. Box 541  
Honolulu, HI 96809

2 copies by U.S. Mail and  
Electronic Service

DEAN MATSUURA  
MANAGER  
REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P.O. Box 2750  
Honolulu, HI 96840-0001

Electronic Service

JAY IGNACIO  
PRESIDENT  
HAWAII ELECTRIC LIGHT COMPANY, INC.  
P. O. Box 1027  
Hilo, HI 96721-1027

Electronic Service

EDWARD L. REINHARDT  
PRESIDENT  
MAUL ELECTRIC COMPANY, LTD.  
P. O. Box 398  
Kahului, HI 96732

Electronic Service

THOMAS W. WILLIAMS, JR., ESQ.  
PETER Y. KIKUTA, ESQ.  
DAMON L. SCHMIDT, ESQ.  
GOODSILL, ANDERSON QUINN & STIFEL  
Alii Place, Suite 1800  
1099 Alakea Street  
Honolulu, HI 96813

Electronic Service

Counsel for Hawaiian Electric Company, Inc.  
Hawaii Electric Light Company, Inc.  
Maui Electric Company, Ltd.

ROD S. AOKI, ESQ.  
500 Ala Moana Blvd., Ste 7-400  
Honolulu, Hawaii 96813

Electronic Service

Counsel for Hawaiian Electric Company, Inc.  
Hawaii Electric Light Company, Inc.  
Maui Electric Company, Ltd.

THEODORE PECK  
DEPARTMENT OF BUSINESS, ECONOMIC  
DEVELOPMENT, AND TOURISM  
State Office Tower  
235 South Beretania Street, Room 501  
Honolulu, HI 96813

Electronic Service

ESTRELLA SEESE  
DEPARTMENT OF BUSINESS, ECONOMIC  
DEVELOPMENT, AND TOURISM  
State Office Tower  
235 South Beretania Street, Room 501  
Honolulu, HI 96813

Electronic Service



MARK J. BENNETT, ESQ.  
DEBORAH DAY EMERSON, ESQ.  
GREGG J. KINKLEY, ESQ.  
DEPARTMENT OF THE ATTORNEY GENERAL  
425 Queen Street  
Honolulu, HI 96813

Electronic Service

Counsel For Department of Business, Economic  
Development, and Tourism

CARRIE K.S. OKINAGA, ESQ.  
GORDON D. NELSON, ESQ.  
DEPT. OF THE CORPORATION COUNSEL  
CITY AND COUNTY OF HONOLULU  
530 South King Street, Room 110  
Honolulu, HI 96813

Electronic Service

Counsel for City and County of Honolulu

LINCOLN S.T. ASHIDA, ESQ.  
WILLIAM V. BRILHANTE JR., ESQ.  
MICHAEL J. UDOVIC, ESQ.  
DEPT. OF THE CORPORATION COUNSEL  
COUNTY OF HAWAII  
101 Aupuni Street, Suite 325  
Hilo, HI 96720

Electronic Service

Counsel for County of Hawaii

MR. HENRY Q CURTIS  
MS. KAT BRADY  
LIFE OF THE LAND  
76 North King Street, Suite 203  
Honolulu, HI 96817

Electronic Service

MR. CARL FREEDMAN  
HAIKU DESIGN & ANALYSIS  
4234 Hana Highway  
Haiku, HI 96708

Electronic Service

MR. WARREN S. BOLLMEIER II  
PRESIDENT  
HAWAII RENEWABLE ENERGY ALLIANCE  
46-040 Konane Place, #3816  
Kaneohe, HI 96744

Electronic Service

MR. MARK DUDA  
PRESIDENT  
HAWAII SOLAR ENERGY ASSOCIATION  
P.O. Box 37070  
Honolulu, HI 96837

Electronic Service

MR. RILEY SAITO  
THE SOLAR ALLIANCE  
73-1294 Awakea Street  
Kailua-Kona, HI 96740

Electronic Service

MR. JOEL K. MATSUNAGA  
HAWAII BIOENERGY, LLC  
737 Bishop Street, Suite 1860  
Pacific Guardian Center, Mauka Tower  
Honolulu, HI 96813

Electronic Service

KENT D. MORIHARA, ESQ.  
KRIS N. NAKAGAWA, ESQ.  
SANDRA L. WILHIDE, ESQ.  
MORIHARA LAU & FONG LLP  
841 Bishop Street, Suite 400  
Honolulu, HI 96813

Electronic Service

Counsel for Hawaii Bioenergy, LLC

MR. THEODORE E. ROBERTS  
SEMPRA GENERATION  
101 Ash Street, Hq. 12  
San Diego, CA 92101

Electronic Service

MR. CLIFFORD SMITH  
MAUI LAND & PINEAPPLE COMPANY, INC.  
P.O. Box 187  
Kahului, HI 96733

Electronic Service

KENT D. MORIHARA, ESQ.  
KRIS N. NAKAGAWA, ESQ.  
SANDRA L. WILHIDE, ESQ.  
MORIHARA LAU & FONG LLP  
841 Bishop Street, Suite 400  
Honolulu, HI 96813

Electronic Service

Counsel for Maui Land & Pineapple Company, Inc.

MR. ERIK KVAM  
CHIEF EXECUTIVE OFFICER  
ZERO EMISSIONS LEASING LLC  
2800 Woodlawn Drive, Suite 131  
Honolulu, HI 96822

*Electronic Service*

PAMELA JOE, ESQ.  
SOPOGY INC.  
2660 Waiwai Loop  
Honolulu, HI 96819

*Electronic Service*

GERALD A. SUMIDA, ESQ.  
TIM LUI-KWAN, ESQ.  
NATHAN C. NELSON, ESQ.  
CARLSMITH BALL LLP  
ASB Tower, Suite 2200  
1001 Bishop Street  
Honolulu, HI 96813

*Electronic Service*

Counsel for Hawaii Holdings, LLC, dba First Wind  
Hawaii

MR. CHRIS MENTZEL  
CHIEF EXECUTIVE OFFICER  
CLEAN ENERGY MAUI LLC  
619 Kupulau Drive  
Kihei, HI 96753

*Electronic Service*

HARLAN Y. KIMURA, ESQ.  
Central Pacific Plaza  
220 South King Street, Suite 1660  
Honolulu, HI 96813

*Electronic Service*

Counsel for Tawhiri Power LLC

SANDRA-ANN Y.H. WONG, ESQ.  
Attorney At Law, A Law Corporation  
1050 Bishop Street, #514  
Honolulu, HI 96813

Electronic Service

Counsel for Alexander & Baldwin, Inc., through its  
division, Hawaiian Commercial & Sugar Company

DATED: Honolulu, Hawaii, March 8, 2010.

  
\_\_\_\_\_  
DOUGLAS A. CODIGA  
Attorney for Blue Planet Foundation